

**SERIAL 10140 IGA ESRI ENTERPRISE SOFTWARE LICENSE AGREEMENT**

**DATE OF LAST REVISION: February 07, 2011 CONTRACT END DATE: July 31, 2013**

**CONTRACT PERIOD BEGINNING AUGUST 01, 2010  
ENDING JULY 31, 2013**

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **ESRI ENTERPRISE SOFTWARE LICENSE  
AGREEMENT**

Attached to this letter is a listing of vendors available to Maricopa County Agencies utilizing the ESRI Contract No. 2010ELA6144.. The using agency and other interested parties may access and electronic version of this contract from the Materials Management Web site at:  
[http://www.maricopa.gov/materials/Awarded\\_Contracts/search.asp](http://www.maricopa.gov/materials/Awarded_Contracts/search.asp).

**Please note: Price Agreement Purchase Orders (PG documents) may be generated using the information from this list. Use NIGP CODE 9204503.**

All purchases of product(s) listed on the attached pages of this letter are to be obtained from the listed contractor(s).



ENTERPRISE LICENSE AGREEMENT  
(E119G 06/2009)

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

Agreement No. 2010ELA6144

This Enterprise License Agreement including the documents listed below (collectively, "Agreement" or "ELA") is between **Maricopa County ("County")**, with its main offices located at 301 West Jefferson, Phoenix, AZ 85009, and **Environmental Systems Research Institute, Inc. ("Esri")**, and is effective as of August 1, 2010 ("Effective Date"). This Agreement provides for the licensing and deployment of certain Esri Software, delivery of ELA maintenance, and provision of Esri International User Conference registrations and any additional services as specified herein.

This Agreement is comprised of the following documents which are incorporated herein by reference:

1. Enterprise License Agreement signature page(s), E119M
2. Maricopa County Terms and Conditions
3. Enterprise License Terms and Conditions, E512M, including;
  - Appendix A, Software and Deployment Schedule
  - Appendix B, Enterprise License Fee Schedule
  - Appendix C, County Annual Deployment Report
  - Appendix D, ELA Points of Contact
  - Appendix E, Tier 1 Help Desk Authorized Individuals
4. License Agreement—Agreement No. 2010MLA6144
  - General License Terms and Conditions, E200
  - Esri Exhibit 1, Scope of Use, E300Note: Licensee is defined on first page of item 2 above.
5. Training Terms and Conditions

The parties acknowledge that they have read and understand this Agreement and agree to be bound by the terms and conditions contained herein.

This Agreement constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to such subject matter. Any modifications or amendments to this Agreement must be in writing and signed by an authorized representative of each party.

ACCEPTED AND AGREED:

MARICOPA COUNTY  
(County)

By: \_\_\_\_\_

Authorized Signature

Printed Name: \_\_\_\_\_

Wesley L. Baysinger

Title: \_\_\_\_\_

Chief Procurement Officer

Date: \_\_\_\_\_

2/1/11

(County signatures continued next page)

ENVIRONMENTAL SYSTEMS  
RESEARCH INSTITUTE, INC.  
(Esri)

By: \_\_\_\_\_

Authorized Signature

Printed Name: \_\_\_\_\_

Chris Johnson

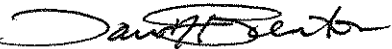
Title: \_\_\_\_\_

Manager, Domestic Contracts

Date: \_\_\_\_\_

January 14, 2011

APPROVED AS TO FORM:

By:   
Legal Counsel

Printed Name: DAVID H BENTZ

Date: Jan 31 2011

**MARICOPA COUNTY  
TERMS AND CONDITIONS**

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**1. Statutory Right Of Cancellation For Conflict Of Interest.** Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Agreement without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the County is at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or consultant to any other party of the Agreement with respect to the subject matter of the Agreement. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the County from any other party to the Agreement arising as the result of the Agreement.

**2. Verification Regarding Compliance With Arizona Revised Statutes §§35-391.06 And 35-393.06 Business Relations With Sudan And Iran.**

**A.** By entering into the Agreement, the Esri certifies it does not have scrutinized business operations in Sudan or Iran. The Esri shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the procurement officer upon request. These warranties shall remain in effect through the term of the Agreement.

**B.** The County may request verification of compliance by Esri or any of its subcontractors performing work under the Agreement. Should the County suspect or find that Esri or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Agreement. All costs necessary to verify compliance are the responsibility of the Contractor.

**3. Verification Regarding Compliance With Arizona Revised Statutes §41-4401 And Federal Immigration Laws And Regulations.**

**A.** By entering into the Agreement, the Esri warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The Esri shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the procurement officer upon request. These warranties shall remain in effect through the term of the Agreement. The Esri and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Agreement and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

**B.** The County retains the legal right to inspect Esri and its subcontractor employee documents performing work under this Agreement to verify compliance with paragraph 3. A of this Section. Esri and its subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that Esri or any of its subcontractors are not in compliance, the County will consider this a material breach of the Agreement and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of Esri. All costs necessary to verify compliance are the responsibility of Esri.



## ARTICLE 1—DEFINITIONS

All definitions in other parts of the ELA will have the same meaning in this Enterprise License Terms and Conditions. In addition, the following definitions apply to the ELA:

- "Deploy," "Deployment," or "Deployed" means to redistribute, or the redistribution of, the Enterprise License Software (and its related keycodes/registration files), or its having been redistributed, by County, during the term of this ELA for installation and use on Licensee's hardware.
- "ELA Fee" means the fee set forth in Appendix B, ELA Fee Schedule.
- "ELA Maintenance" means Tier 2 Support, updates, and patches provided by Esri for Enterprise License Software and Rolled-In Software.
- "Enterprise License Software" means the Software (including Data, Web Services, and Documentation provided with the particular item) identified in Table A-1 and Table A-2 of Appendix A, Software and Deployment Schedule. Enterprise License Software does not include unit priced item(s) or Esri technology that may be embedded in third-party products purchased by Licensee.
- "Incident" means a failure of the Software to operate according to the Documentation where such failure substantially impacts operational or functional performance.
- "License Agreement" means the 2010MLA6144, referenced on the signature page of this ELA.
- "Licensee" means County. For avoidance of doubt, the definition of Licensee will not include consultants or contractors.
- "Rolled-In Software" means Software of the same type as Enterprise License Software that Licensee acquired for use prior to the Effective Date that is current on paid maintenance (as shown in Esri's customer service records) and that receives ELA Maintenance during the term of the ELA.
- "Technical Support" means a process to attempt to resolve reported Incidents through error correction, patches, hot fixes, and workarounds; replacement deliveries; or any other type of Software, Data, or Documentation corrections or modifications specified in the most current applicable Esri U.S. Software Maintenance Program.
- "Tier 1 Help Desk" means County point of contact from which all Tier 1 Support will be given to Licensee.
- "Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Licensee in its attempted resolution of reported Incidents.
- "Tier 2 Support" means the Technical Support provided by Esri to the Tier 1 Help Desk when the Incident cannot be resolved through Tier 1 Support.

## ARTICLE 2—GRANT OF LICENSE

**2.1 Grant of License.** Licensee's use of the Enterprise License Software is subject to the License Agreement and any additional terms set forth in this Article 2 and in Article 3 below. Rolled-In Software will be licensed in accordance with the License Agreement.

**2.2 Beta License.** Beta licenses are not available under this ELA. Therefore, Section 3.2, Beta License, in the License Agreement is deleted in its entirety.

**2.3 Consultant Access.** Section 3.4, Consultant Access, of the General Terms and Conditions—E200 in the License Agreement is modified to add the restriction that access to and use of any Enterprise License Software is restricted to use by consultants and contractors for the sole benefit of Licensee while (i) working on-site at Licensee's facilities; (ii) remotely accessing or using Enterprise License Software from Licensee's on-site computers or machines; or (iii) remotely using/accessing Enterprise License Software from a third party's computers or machines under contract to Licensee. Licensee shall require consultant or contractor to discontinue access to and use of Enterprise Software upon completion of work for Licensee.

**2.4 County Responsibility.** County shall remain primarily responsible to Esri for compliance by Licensees (including their users) with the terms and conditions of this ELA.

## ARTICLE 3—SCOPE OF USE

There are Additional Restrictions, Permitted Uses, and Uses Not Permitted for County and Licensee incorporated into this ELA. The Permitted Uses and Uses Not Permitted sections of the General License Terms and Conditions portion of the License Agreement, are modified by Sections 3.1 and 3.2 as follows:

**3.1 Additional Permitted Uses.** The following additional Permitted Uses are hereby granted to County for the Enterprise License Software:

For the term of the ELA, County may copy and Deploy the Enterprise License Software to Licensees up to the quantities of licenses granted in Appendix A. No other Licensee has a right to copy (except as permitted in the License Agreement) or Deploy the Enterprise License Software.

**3.2 Uses Not Permitted.** In addition to the restrictions set forth in the License Agreement, the following Uses Not Permitted apply to the Enterprise License Software:

- a. County shall not transfer, redistribute, or Deploy the Enterprise License Software outside the United States or its territories or possessions without the prior written permission of Esri and agreement on additional fees, if any.
- b. Licensee shall not use the Enterprise License Software outside the United States or its territories or possessions without the prior written permission of Esri and agreement on additional fees, if any. Any such export will be subject to U.S. Export Control Regulation requirements of the License Agreement.
- c. Hard-copy Documentation may not be copied.
- d. Licensee shall not transfer, redistribute, or assign Enterprise License Software to any third party without prior Esri written permission.

## ARTICLE 4—MAINTENANCE

**4.1 ELA Maintenance.** ELA Maintenance is included in the ELA Fee. Rolled-In Software and Enterprise License Software will receive ELA Maintenance, provided that standard maintenance is available for each item. ELA Maintenance includes benefits specified in the most current applicable Esri U.S. Software Maintenance Program document (found at [www.esri.com/legal](http://www.esri.com/legal)) as modified by this Section 4.1.

### a. Tier 1 Support Provided by County

- (1) Tier 1 Help Desk will provide Tier 1 Support to all Licensees.
- (2) The Tier 1 Help Desk will use analysts fully trained in the Software they are supporting.
- (3) At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
- (4) Tier 1 Support analysts will be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from the Licensee. This may include obtaining any customizations, code samples, or data involved in the Incident. The analyst may also use any other information and databases that may be developed to satisfactorily resolve Incidents.
- (5) If the Tier 1 Help Desk cannot resolve the Incident, an authorized Tier 1 Help Desk individual may contact Esri for Tier 2 Support. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensee.
- (6) County may assign up to the quantity of named Tier 1 Help Desk individuals listed in Appendix B. These individuals will be identified in Appendix E and are the only individuals (callers) authorized to contact Esri directly for Tier 2 Support.

### b. Tier 2 Support Provided by Esri

- (1) Esri shall log the calls received from the Tier 1 Help Desk individuals.
- (2) Esri shall review all information collected by and received from Tier 1 Help Desk individuals including preliminary documented troubleshooting provided by Tier 1 Help Desk when Tier 2 Support is required.

- (3) Esri may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.
- (4) Esri shall attempt to resolve the Incidents submitted by Tier 1 Help Desk by assisting the Tier 1 Help Desk individuals and not the Licensees.
- (5) When the Incident is resolved, Esri shall communicate the information to the Tier 1 Help Desk individuals, and the Tier 1 Help Desk shall disseminate the resolution to the Licensee.
- (6) Esri may, at Esri's sole discretion, make patches, hot fixes, or updates available for downloading from Esri's Web site or deliver them on media.

## **ARTICLE 5—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT REPORT**

### **5.1 Purchase Orders, Delivery, and Deployment**

- a. County shall issue a purchase order upon execution of the ELA and annually thereafter in accordance with the fee schedule in Appendix B. These fees will be due and payable within thirty (30) days of the anniversary date of the ELA, with the initial payment due within thirty (30) days of execution of the ELA.
- b. Upon receipt of the initial purchase order from County, Esri shall deliver the number of sets of media listed in Appendix B that contain the Enterprise License Software to County for County's Deployment to Licensees. Esri shall ship the media to the ship-to address identified in Appendix D, ELA Points of Contact, FOB destination with shipping charges prepaid. County may purchase additional media sets at the prices in effect at the time of purchase.
- c. Esri shall provide County with hardware keys ordered on an as-required basis. The maximum cumulative total of hardware keys provided will not exceed the number listed in Appendix B. Additional hardware keys may be ordered at the prices in effect at the time of purchase.
- d. Esri shall provide registration numbers or keycodes, as applicable, to activate the nondestructive copy protection program that enables the Enterprise License Software to operate.
- e. County shall Deploy, install, configure, and track the Deployment status of Enterprise License Software.

### **5.2 Purchase Order Requirements**

- a. Any purchase orders issued by County will reference, incorporate, and be subject to the terms and conditions of this ELA. No additional, conflicting, or different terms contained in a purchase order or ordering document will be binding. All orders and deliveries pertaining to this ELA will be processed through County's centralized point of contact.
- b. The following information will be included in each purchase order:
  - (1) Esri customer number and the ship-to address as identified in Appendix D.
  - (2) Purchase order number.
  - (3) Applicable annual payment due.
  - (4) On the face of the purchase order, print the following statement: "Governed by and subject to Enterprise License Agreement No. 2010ELA6144."

**5.3 Annual Report of Deployments.** At each anniversary date and ninety (90) days prior to the expiration date of this ELA, County shall provide a written report, as set forth in Appendix C, to Esri detailing all Deployments made. The report will be subject to audit by an authorized representative of Esri.

**5.4 Esri International User Conference Registration.** Esri shall provide Esri International User Conference registrations to County annually during the term of this ELA in the quantities set forth in Appendix B. County is responsible for distributing the registrations to Licensees. Third parties may not represent or attend on behalf of County at any Esri International User Conference.

## **ARTICLE 6—POINTS OF CONTACT; NOTICES**

**6.1 Points of Contact.** Each party shall identify points of contact for administrative and technical issues in Appendix D.

**6.2 Notices.** Except as set forth in Section 6.1, any notice, report, demand, or other communication will be properly given when made in writing in English and sent by courier; registered or certified airmail; or facsimile or other electronic

transmission, and confirmed by courier or by registered or certified airmail, properly addressed to the appropriate party at the address set forth above, until changed by notice in writing by either party hereto. If sent by courier or airmail, notice will be effective seven (7) days from the date of deposit with the courier service or post office. If sent by electronic transmission, notice will be effective upon receipt, provided confirmation is given as specified herein. Notices will be given at the following addresses:

To: Esri  
380 New York Street  
Redlands, CA 92373-8100  
Attn.: Manager, Contracts and Legal Services

To: County  
as listed in Appendix D

## **ARTICLE 7—TERM, TERMINATION, AND EXPIRATION**

**7.1 Term.** The term of the ELA will be for the period of three years, commencing on the Effective Date unless this ELA is terminated earlier as provided herein.

**7.2 Termination for a Material Breach.** Either party may terminate this ELA for a material breach by the other party. The breaching party will be given a period of ten (10) days from date of written notice to cure any material breach. Upon termination of this ELA by Esri for a material breach, all licenses Deployed will also terminate, and the full amount of unpaid ELA Fees will be due and payable by County within thirty (30) days from the date of termination. Licensees shall uninstall, remove, and destroy all Enterprise License Software; training materials; and any whole or partial copies, modifications, or merged portions in any form. County shall deliver evidence of such destruction to Esri, which evidence will be in a form acceptable to Esri. Licensee may continue to use Rolled-In Software, provided Licensee complies with the terms and conditions of the License Agreement. Further, Esri agrees that Licensee is not required to pay a maintenance reinstatement fee for lapsed maintenance for Rolled-In Software if Licensee orders maintenance at time of ELA termination. Other items that may be included in this ELA such as EAP, Virtual Campus annual user license, access codes, Virtual Campus dollar credits, and User Conference registrations, will also terminate if this ELA is terminated.

**7.3 License Term and Use upon Expiration of ELA Term.** Upon full payment of the ELA Fee and expiration of this ELA, the License Agreement will survive, and Licensee may continue to use the Deployed Enterprise License Software and Rolled-In Software in accordance with the terms and conditions set forth in the License Agreement. Licensee may order standard maintenance upon expiration of ELA Term for Rolled-In Software for the next year without paying a maintenance reinstatement fee for lapsed maintenance. Licensee shall notify Esri of the quantity and type of licenses for which Licensee elects to purchase standard maintenance. If maintenance is not ordered for Rolled-In Software or Enterprise License Software upon expiration of the ELA, it lapses. If, at a later date, Licensee decides to reinstate maintenance, Licensee must pay maintenance fees from the date of ELA expiration (e.g., back maintenance fees). County shall not Deploy additional copies of the Enterprise License Software beyond the quantities in use upon termination or as of the date of expiration.

## **ARTICLE 8—CONFIDENTIALITY**

**8.1 Reserved.**

## **ARTICLE 9—RELATIONSHIP OF THE PARTIES**

The ELA does not constitute a partnership, joint venture, or agency between Esri and County. Neither Esri nor County will hold itself out as such, nor shall Esri or County be bound or become liable because of any representation, action, or omission of the other.

## **ARTICLE 10—FORCE MAJEURE**

If the performance of any obligation under this ELA is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, or power; war, threat of or actual terrorist act, cyberattack, or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government agency; or any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, will be provided a temporary extension for a period of time as may be reasonably necessary to allow for such delay, prevention, interference, or restriction.



## ARTICLE 11—GIS STANDARD

County shall officially name Esri as its GIS standard and act as a reference for other Esri customers and potential customers as long as the ELA remains in effect. This ELA will not be construed or interpreted as an exclusive dealings agreement, and County reserves the right to purchase from third parties any of their requirements for GIS software, or related services.

County agrees that Esri may publicize the existence of the ELA.

## ARTICLE 12—ADMINISTRATIVE REQUIREMENTS

**12.1 OEM Licenses.** If Licensee obtains Software, Data, Web Services, or any component thereof as part of an original equipment manufacturer (OEM) software program or product developed and licensed by an OEM business partner of Esri, Licensee will not be entitled to or seek any discount from the OEM business partner or Esri, directly or indirectly, as a result of or based upon the availability of such Software, Data, or Web Services, as Enterprise License Software under this ELA. In addition, such Software, Data, Web Services, or any component thereof included in the OEM software program or product will be licensed through the license agreement provided by the OEM business partner and not through this ELA.

**12.2 Conversion of Enterprise License Software—Limited Quantity or Unit Priced Item.** Newer or updated Enterprise License Software may contain or be developed with (i) newly acquired technology obtained through a significant investment or (ii) third-party intellectual property that requires a unit-based royalty fee or prohibits Deployment under a site or enterprise license. Esri reserves the right to exclude such newer or updated versions of the Enterprise License Software from the list of items eligible to be Deployed in unlimited quantities. Such items can be made available to County on a limited quantity basis or as unit priced item(s). In such event, Licensee may continue to use the older (previous) version Deployed, and Esri will provide Technical Support in accordance with the Esri Product Life Cycle Support Policy.

**12.3 Obsolescence.** During the term of this Agreement, some of the items listed in Appendix A may become obsolete or will no longer be commercially offered or may no longer be available for Deployment. Licensee may continue to use Enterprise License Software that has been Deployed, but support and upgrades for older items may not be available. ELA Maintenance and maintenance and availability of Enterprise License Software identified in Appendix A will be subject to each item's Life Cycle Support Status, which can be found at <http://support.esri.com/index.cfm?fa=knowledgebase.productlifecycles.gateway> by selecting the product type and clicking the Product Life Cycle link for specific product plans. Esri's Product Life Cycle Support Policy, available at <http://support.esri.com/knowledgebase/relatedDocs/ProductLifeCycle.pdf>, defines the support phases and overall support plans.

## ARTICLE 13—GENERAL PROVISIONS

**13.1** The General Provisions and Limitations of Liability of the License Agreement will apply to the entire ELA. If there is a conflict among any of the other terms and conditions in the various documents, the order of descending precedence will be as follows: (1) E119 Signature Page, (2) Maricopa County Terms and Conditions, (3) E512 ELA Terms and Conditions, (4) E300 Scope of Use, (5) E200 General License Terms and Conditions, and (6) Training Terms and Conditions. In the event this ELA includes Enterprise Advantage Program, the terms and conditions of the Enterprise Advantage Program Addendum will take precedence over the provision of the ELA with respect to the Enterprise Advantage Program. Except as otherwise expressly provided herein, any amendment or Addendum to this ELA must be in writing and signed by an authorized representative of each party.

**13.2 Survival of Certain ELA Clauses.** The provisions of Articles 7.4 and 8 of this Enterprise License Terms and Conditions document (E512) will survive the expiration or termination of this ELA.

**APPENDIX A  
SOFTWARE AND DEPLOYMENT SCHEDULE**

County may Deploy the Enterprise License Software up to the total quantity of licenses indicated below to Licensees. The quantities identified are the cumulative quantities available in any given year for the term of this ELA.

**Table A-1  
Enterprise License Software—Unlimited Quantities**

<b>Product</b>	<b>Total Qty/Seats</b>
<b>Desktop Software</b>	
ArcInfo	Unlimited
ArcEditor	Unlimited
ArcView	Unlimited
<b>Desktop Extension Software</b>	
ArcGIS Spatial Analyst	Unlimited
ArcGIS 3D Analyst	Unlimited
ArcGIS Geostatistical Analyst	
ArcGIS Network Analyst	Unlimited
ArcGIS Publisher	Unlimited
ArcGIS Schematics	Unlimited
ArcScan for ArcGIS	Unlimited
Maplex for ArcGIS	Unlimited
ArcGIS Workflow Manager	Unlimited
Arc Press	Unlimited
<b>Server Software and Extensions</b>	
ArcGIS Server [Basic/Workgroup, Standard, Advanced or Enterprise]	Unlimited
ArcGIS Server Extensions – 3D Analyst, Network Analyst, Spatial Analyst, Geostatistical, Schematics, ArcGIS Workflow Manager, Image Extension	Unlimited
<b>Esri Production Mapping</b>	Unlimited
<b>ArcGIS Mobile Developments</b>	Unlimited
<b>ArcGIS Engine Runtime Extensions</b>	
3D Analyst	Unlimited
Spatial Analyst	Unlimited
Geodatabase Update	Unlimited
Network Analyst	Unlimited
Arc Schematics	Unlimited
Maplex	Unlimited

**Table A-2**  
**Enterprise License Software—Limited Quantities**

Item	Total Qty./Seats to Be Deployed
Esri Developer Network (EDN) annual subscription	7
Esri StreetMap Premium NAVTEQ Data (State of Arizona only) single use, desktop	1

**APPENDIX B  
ELA FEE SCHEDULE**

The ELA Fee is \$860,000.00. The ELA Fee is in consideration of the Enterprise License Software, ELA Maintenance, Esri International User Conference registrations, and Virtual Campus dollars.

	Year 1	Year 2	Year 3	ELA Fee
<b>Payments</b>	<b>\$220,000.00</b>	<b>\$320,000.00</b>	<b>\$320,000.00</b>	<b>\$860,000.00</b>
<b>*Virtual Campus dollar credits per year.</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>	
<b>Number of annual ESRI International User Conference Registrations</b>	<b>15</b>	<b>15</b>	<b>15</b>	
<b>Number of Tier 1 Help Desk Individuals</b>	<b>5</b>	<b>5</b>	<b>5</b>	
<b>Number of Sets of Media</b>	<b>5</b>	<b>5</b>	<b>5</b>	
<b>Maximum Number of Hardware Keys</b>	<b>100</b>	<b>100</b>	<b>100</b>	

\*Applies to standard user license for Esri authored courses only (third party authored courses not included). Unused credits will be rolled over each year of the ELA for the three year period and expire six (6) months after expiration of the ELA.

**ELA Fee.** The ELA Fee shall include ELA Maintenance for the following ArcGIS desktop extension licenses and one Image Server license previously acquired by the County:

<b>ELA Maintenance Items Included In The ELA Fee</b>	<b>Total Qty./Seats</b>
<b>ArcGIS Desktop Extension</b>	
Data Interoperability (Concurrent Use)	1
COGO	3
Tracking Analyst (Concurrent Use)	1
ArcPAD	4
<b>Server</b>	
Image Server	1

**Discounts.** During the term of this ELA Esri shall provide County a five (5%) percent discount from Esri's commercial price on a) all instructor lead training courses offered at Esri facilities and b) Esri Live Virtual Classroom courses. Instructor lead training courses are subject to Esri training terms and conditions found attached to this ELA.

## APPENDIX C

### COUNTY ANNUAL DEPLOYMENT REPORT

**SAMPLE REPORT**—This report will be provided to Esri as an Excel spreadsheet or comparable format.

## ENTERPRISE LICENSE COUNTS

[illegible]

Licenses will be counted by product and location annually.

**APPENDIX D  
ELA POINTS OF CONTACT**

Either party may change its point of contact by written notice to the other party.

1. Esri point of contact for order processing issues:

Name: Customer Service  
Esri Redlands  
380 New York Street  
Redlands, CA 92373-8100  
E-mail: [service@esri.com](mailto:service@esri.com)  
Phone: 888-377-4575  
Fax: 909-307-3083

2. Esri contact for Tier 2 Support issues:

E-mail: [support@esri.com](mailto:support@esri.com)  
Phone: 909-793-3774 (domestic U.S. only)  
Fax: 909-792-0960  
Web: [support@esri.com](mailto:support@esri.com)

3. County centralized point of contact for order release and administrative issues:

Name: Marta Dent  
E-mail: [mld@mail.maricopa.gov](mailto:mld@mail.maricopa.gov)  
Phone: 602-506-4733  
Fax: 602-372-8529

4. All deliverables to County will be shipped to the address listed below:

County Office: GIO  
Name: Marta Dent  
Address: 2801 W. Durango St.  
85009

5. All notices to County will be mailed to the address listed below:

County Office: GIO  
Name: Marta Dent  
Address: 2801 W. Durango St.  
85009

## APPENDIX E

### TIER 1 HELP DESK AUTHORIZED INDIVIDUALS

Below are named Tier 1 Help Desk individuals authorized to seek Tier 2 Support from Esri. Substitutes/Changes to Tier 1 Help Desk authorized individuals may be made by written notice to Esri.

1. Name: Aaron Lee  
Address: Maricopa County assessor's Office 301 W. Jefferson St., suite 330  
Phoenix, AZ 85003  
Phone: 602-372-2475  
Fax: 602-506-2002  
E-mail: leea003@mail.maricopa.gov
2. Name: Leo Donahue  
Address: 501 N. 44<sup>th</sup> St.  
Phoenix, AZ 85008  
Phone: 602-506-2475  
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  - ArcView (either 1 or 2 and 25, 33, 44, and 45)
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14. Developers must include the following attribution with any deployed MapObjects application: "Portions of this computer program are owned by LizardTech, Inc., and are Copyright © 1995–2002 LizardTech, Inc., and/or the University of California. All rights reserved. U.S. Patent No. 5,710,835."
15. Deployment licenses for desktop or Internet application(s) may be subject to payment of additional license fees.
16. Licensee may deliver applications to its sublicensee(s) provided Licensee uses a written sublicense agreement that protects Esri's rights in its Software, Data, Web Services, and Documentation to the same extent as the Esri License Agreement including, but not limited to, the following terms:
  - a. Sublicensee may not reverse engineer, decompile, or disassemble the Esri Software, Data, Web Services, or Documentation, except to the extent permitted by applicable law; copy for commercial use; transfer; or assign its rights under the license grant;
  - b. Sublicensee may not use any Esri Software, Data, Web Services, or Documentation, in whole or in part, separate from Licensee's executable application; and
  - c. Third-party dependent or required components are redistributable subject to permission from the owner or author.
17. Licensee may use Business Objects Crystal Reports software only with the ArcView 3.x Software with which it was acquired and subject to the Crystal Reports License Agreement available on the media. Licensee may not use a software program or system to cache or queue report requests.
18. The deployment license is per application per computer.
19. MapObjects—Java Edition contains Java Archive files, which indicate they are authentic Esri-certificated files when used over the Internet. Licensee shall not use Esri certification or reference Esri as a source of trusted content in any modified MapObjects—Java Archive files. Licensee may deploy the unmodified Java class Esri-certified libraries as an integral part of the Licensee's application(s).
20. Licensee may reproduce and deploy the Software provided all the following occur: (a) the Software is reproduced and deployed in its entirety; (b) a license agreement accompanies each copy of the Software that protects the Software to the



same extent as the Esri License Agreement, and the recipient agrees to be bound by the terms and conditions of the license agreement; (c) all copyright and trademark attributions/notices are reproduced; and (d) there is no charge or fee attributable to the use of the Software.

21. Licensee shall not withhold any substantial right (e.g., extension of credit) from any individual based solely on the individual's place of residence, as profiled in the Tapestry Segmentation system.
22. (a) ArcGIS Engine Runtime licenses shall not be used for Internet and server development and deployment; (b) an end user must license either ArcGIS Engine Runtime Software or other ArcGIS Desktop Software (ArcView, ArcEditor, or ArcInfo) to obtain the right to run an ArcGIS Engine application on one (1) computer; and (c) the ArcGIS Engine Runtime extensions shall not be used in combination with ArcGIS Desktop Software to run ArcGIS Engine applications. A single user can have multiple applications installed on one (1) computer for use only by that end user.
23. Licensee may redistribute the Data as described in the Redistribution Rights Matrix available at <http://www.esri.com/legal/>, in the Help system, or in supporting metadata files, subject to the specific attribution descriptions and requirements for the dataset accessed.
24. EDN Software, Web Services, and Data may only be used by one (1) named developer per subscription solely for the purposes of research, development, testing, and demonstration of a prototype application. EDN server Software and Data may be installed on multiple computers for use by any named EDN developer.
25. Use of included third-party owned data shall be subject to the Use of Data Restrictions found at <http://www.esri.com/legal/> for the specific Data accessed. The Use of Data Restrictions may be modified by Esri from time to time. If a modification is unacceptable to Licensee, Licensee may cancel a subscription upon written notice to Esri, or discontinue use of the Data or Web Services, as applicable. If Licensee continues to use the Data or Web Services, Licensee will be deemed to have accepted the modification.
26. An ArcSDE Personal Edition geodatabase is restricted to ten (10) gigabytes of Licensee data.
27. ArcGIS Server Web ADF Runtime Software may not be deployed independent of Licensee's ArcGIS Server Enterprise configuration.
28. Use is limited to ten (10) concurrent end users of applications other than ArcGIS Server applications. This restriction includes use of ArcGIS Desktop Software, ArcGIS Engine Software, and third-party applications that connect directly to any ArcGIS Server geodatabase. There are no limitations on the number of connections from Web applications.
29. Software can only be used with SQL Server 2005/2008 Express.
30. Use is restricted to a maximum of ten (10) gigabytes of Licensee data.
31. Redundant Software installation(s) for failover operations is allowed but can only be operational during the period the primary site is nonoperational. The redundant Software installation(s) shall remain dormant, except for system maintenance and updating of databases, while the primary site or any other redundant site is operational.
32. No redundant Software installation is permitted.
33. Licensee's access to and use of Cloud Bundle, ArcGIS Online Services, or Microsoft Bing Maps are conditioned upon Licensee's acceptance of the Esri Web Site and Service Terms of Use Agreement and the terms and conditions specific to Cloud Bundle, ArcGIS Online Services, or Microsoft Bing Maps found at <http://www.esri.com/legal/>.
34. Licensee's organization is limited to the number of specified credits, transactions, geography, or number of users as described in the online product description.
35. Licensed end users shall not share the client-side data cache derived from ArcGIS Online Services with other licensed end users or third parties.
36. Reserved.
37. Data provided with StreetMap USA may be used for mapping, geocoding, and routing purposes but is not licensed for dynamic routing purposes. For instance, StreetMap USA may not be used to alert a user about upcoming maneuvers (such as warning of an upcoming turn) or to calculate an alternate route if a turn is missed.
38. The ArcGIS Server 3D extension included with ArcGIS Server Standard (Workgroup or Enterprise) may only be used for generating globe data cache(s) or publishing a globe document as an ArcGIS Globe Service. No other use of the ArcGIS Server 3D extension Software is permitted with ArcGIS Server Standard.
39. Any editing functionality included with ArcGIS Server is not permitted for use with ArcGIS Server Basic (Workgroup or Enterprise).
40. Geospatial Enterprise JavaBeans (EJB) provided with ArcGIS Server (Workgroup or Enterprise) is permitted for use only with ArcGIS Server Advanced.
41. Licensee may only use Data from a single state with the Single State version of ArcGIS Data Appliance. This restriction applies to a large-scale (i.e., scale levels below 1:100,000) street map, transportation layer, boundaries and places layer, and one (1)-meter or better resolution imagery included in the USA Collection. This restriction does not apply to the small-scale (i.e., scale levels above 1:100,000) maps provided in the World Collection, which are intended for display at global and regional scales.

42. Licensee has the right to one (1) desktop deployment of the ArcGIS Server Image extension Service Definition Editor for every four (4) cores of ArcGIS Server Image extension that are licensed.
43. Licensee may develop an unlimited number of applications on a single computer and deliver the applications to end users with or without the ArcGIS Engine Runtime Software.
44. For any operating system environment in which Licensee runs instances of the Concurrent Use License management software, Licensee may run up to the same number of passive failover instances of the Concurrent Use License management software in a separate operating system environment for temporary failover support.
45. Data licensed with Esri Business Analyst and Esri Business Analyst Server is restricted for use only in conjunction with the respective Business Analyst extension.
46. Licensee should not follow any route suggestions that appear to be hazardous, unsafe, or illegal. Licensee assumes all risk of using this navigation Software.
47. Reserved.
48. Licensee may include reports and maps created from the Software or Data in hard-copy or read-only format for presentation packages or marketing studies for subsidiaries and customers. The total content of the Esri reports and maps must be less than twenty percent (20%) of Licensee's total content of the presentation package or marketing study. Full, complete, stand-alone reports or maps created from the Software or Data and not part of a presentation package or marketing study cannot be resold, sublicensed, or otherwise transferred without prior written permission of Esri. Licensee's third-party customer may only receive reports and maps generated by Licensee and may only use the maps and reports received from Licensee for internal purposes. In no case shall Licensee redistribute the Data in digital formats.
49. Esri MapIt Silverlight Web or WPF applications may not be deployed independent of Licensee's MapIt deployment configuration.
50. Licensee has the right to one (1) desktop deployment of Spatial Data Assistant for each Esri MapIt server license.
51. Esri Business Analyst Server Developer and Data may only be installed on one (1) server per license solely for the purposes of research, development, testing, and demonstration of a prototype application.
52. Source code is the intellectual property of Esri. Licensee shall treat any source code file identified as "Software" in a README file or at <http://www.esri.com/legal/> as a trade secret for Licensee's own internal use only and not for further redistribution or access by unlicensed third parties. Licensee shall not modify the Software, Documentation, Data, or source code to incorporate, embed, link, or otherwise include any code, libraries, or data licensed or distributed under an open source licensing or distribution models similar to Free Software Foundation's GNU General Public License (GPL) or GPL-compliant licenses, including, without limitation, the Artistic License (e.g., Perl), the Mozilla Public License, the Netscape Public License, and the Sun Community or Industry Standards License, that could require a user to make its proprietary source code available to a requesting third party.
53. Deployment license options are as follows:
  - a. A license for Web applications is per the principal registered unique domain identifier. Domain is the Internet domain name registered with a domain name registrar. For example, in example.com, example.com is the registered unique domain identifier. Similarly, in example.com.xx, where xx is a registered country code, example.com.xx is the registered unique domain identifier.
  - b. A license for desktop applications or SharePoint is per organization. For the purposes of this license, organization is equivalent to a principal registered unique domain identifier (as described above). For example, desktop applications can be used by any employee of the organization with the principal registered unique domain identifier. There is no limit to the number of applications that can be built and deployed within an organization.
54. ArcGIS Mobile is licensed for use with ArcGIS Server Advanced (Enterprise or Workgroup) and ArcGIS Desktop (ArcInfo, ArcEditor, ArcView, and ArcGIS Engine applications).



## TRAINING TERMS AND CONDITIONS

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

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This Training Agreement ("Agreement") is between you (hereinafter "**Client**") and **Environmental Systems Research Institute, Inc. ("Esri")**. Client acknowledges that Client has read and understood this Agreement and agrees to be bound by the terms and conditions hereof.

### RECITALS

The Client wishes to arrange for certain training in the use of GIS software. Esri is willing to conduct training courses and provide related services regarding the use of GIS software pursuant to the terms and conditions contained herein. The parties therefore agree as follows:

### ARTICLE 1—TRAINING DESCRIPTION

Esri offers a set of instructor-led training and client coaching services related to the use of its proprietary GIS software. Instructor-led training events occur at a client's site, at an Esri Learning Center, or via the Web. The Esri software training course(s) to be conducted, location, and schedule dates are set forth in the *Esri Course Catalog* located on Esri's Training Web site (<http://training.esri.com>). All courses are conducted in substantial conformity with course descriptions outlined on the Esri Training Web site. Esri reserves the right to modify course content when necessary due to software technical capabilities or limitations. Client coaching services may be provided immediately before or immediately following an Esri training course to familiarize the Student with the software or to review and practice course concepts with an instructor's guidance.

### ARTICLE 2—ESRI'S RESPONSIBILITIES

- Esri will provide an instructor qualified to conduct the course(s) as well as all necessary training materials sufficient for the number of registered participants (hereinafter "**Student(s)**") on the scheduled dates. Esri will provide each Student with a course manual, where applicable.
- Esri will confirm Learning Center training class scheduled dates approximately ten (10) business days prior to the class start date.
- Esri will confirm Client Site scheduled dates upon receipt of the completed Client Site Training Request Form and intended payment method.

### ARTICLE 3—CLIENT'S RESPONSIBILITIES

- Client must ensure the protection of Esri's copyrights. Client shall neither copy or distribute nor permit a third party to copy or distribute any of Esri's training material(s).
- Client must not resell seat(s) to an Esri training class, unless explicitly authorized in writing by Esri.
- Client must confirm that all registered Students meet the minimum prerequisites for the applicable class set forth on Esri's Training Web site.
- Client must submit registrations with a confirmed payment commitment at least seven (7) business days before the class start date. If Client submits a registration without a confirmed payment, Esri will not confirm the seat reservation. The reservation will be added to the waiting list pending payment confirmation and subject to availability.
- U.S. government export control laws and regulations prohibit U.S. persons from engaging in transactions with certain denied persons found on various U.S. Government Denied Persons lists (e.g., U.S. Department of the Treasury's Specially Designated Nationals List, U.S. Commerce Department's Denied Persons/Entity List, etc.). To meet these export requirements, Client must submit to the Esri Training Event Assistant a list of the names of Students that are to attend any training class. Client must submit the list of Student names to Esri at least three (3) business days before the class start date. Any Student that is found on any of the various U.S. Government Denied Persons lists will not be permitted to attend training.
- Client is responsible for all Student travel arrangements. Esri assumes no responsibility for losses from nonrefundable travel arrangements resulting from denial of a Student's participation due to U.S. government export regulation requirements, course scheduling changes, or cancellations.

- Client must provide written notice to Esri's Customer Service of any cancellation, rescheduling, or Student substitution requirements and receive confirmation of these change(s) prior to the class start date.
- Client is responsible to ensure that it adheres to the course, facility, and equipment requirements for Esri training as found at <http://training.esri.com/gateway/index.cfm?fa=trainingOptions.gateway>.
- Students may not use audio and/or video recording equipment within the classroom without prior written approval from Esri.
- If the Esri Mobile Lab is utilized at Client's site, then the following terms will apply:
  - Upon receipt, Client must immediately report any damage to the Mobile Lab equipment to the Training Event Assistant.
  - Client must keep the Mobile Lab in a secure, locked area between class sessions.
  - Client must ensure that only registered Students use the Mobile Lab equipment.
  - Client is responsible for any and all loss of, damage to, or theft of the Mobile Lab while in Client's possession.
  - Client warrants that it maintains sufficient insurance coverage to enable it to meet its obligations created by this Agreement and by law.
  - The Esri instructor will check all Mobile Lab equipment following the completion of training. Any damage to the Mobile Lab due to Student use, excluding normal wear and tear, will be brought to the attention of Client by written notice. Client hereby agrees to be financially responsible for any repair or replacement of equipment resulting from such damage.
  - Client shall make the Mobile Lab available for freight pickup immediately on conclusion of the Esri course(s).
- Client must complete and submit an Esri Client Site Training Request Form, as provided by the Training Event Assistant.

#### ARTICLE 4—INSURANCE AND INDEMNIFICATION

**4.1 Insurance.** Esri carries, at a minimum, the following coverage:

- a. Comprehensive general liability or commercial general liability with minimum coverage of one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, including death, and property damage liability, to include the following:
  1. Premises and operations
  2. Blanket contractual liability
  3. Broad form property damage
  4. Independent contractors
  5. Personal injury, with employee exclusion deleted
  6. Completed operations
- b. Workers' compensation insurance, with waiver of subrogation, in an amount that complies with statutory limits.

**4.2 Indemnification.** Esri will indemnify and hold harmless Client and each of its directors and officers (collectively the "Indemnified Parties") from and against any and all damages, losses, liabilities, claims, judgments, and settlements, including all reasonable costs, expenses, and attorneys fees, arising out of any action or claim for bodily injury, death, or property damage brought against any of the Indemnified Parties to the extent arising from any negligent act or omission or willful misconduct by Esri or its directors, officers, employees, or agents while engaged in or as a result of the training or coaching services provided by Esri pursuant to this Agreement while on Client's site.

#### ARTICLE 5—UNIQUE CLIENT COACHING PRIVACY TERMS

In the event Client coaching services are to be ordered, the following terms shall apply:

Client shall not provide to Esri or disclose to the instructor any company confidential, proprietary, personally identified information ("PII") (e.g., GLBA, HIPAA, CII from the U.S. Department of Homeland Security), classified, and so forth, data for use in the coaching session. Notwithstanding anything in this Agreement to the contrary, Esri retains the right to refuse acceptance of any nonpublic personal information ("NPI") or Customer Information regardless of the form of

disclosure. Esri will only accept receipt of information from Client that comports with the exceptions set forth in Subsections 4(B) and 4(C)(ii) of Section 509 of the Gramm-Leach-Bliley Act (P.L. 106-102) (15 U.S.C. Section 6809) and implementing regulations thereof.

## **ARTICLE 6—SOFTWARE LICENSES**

The terms of the Esri license agreement are applicable to all Client course Students and for Esri software, data, and documentation licensed for use in any training course to be conducted. For Client Site Training, temporary software licenses may be issued by Esri where there are an insufficient number of software licenses available at the training facility. Client must uninstall the temporary software licenses at the conclusion of the training course and return to Esri any media provided.

## **ARTICLE 7—CANCELLATION AND RESCHEDULING POLICY**

Client may cancel or reschedule Student attendance in training up to three (3) working days before the scheduled class start date. In the event of a cancellation, Client will reimburse Esri for any reasonable travel and shipping expenses incurred by Esri. In the event Client does not notify Esri at least three (3) days prior to the scheduled training date, Client will be charged the full amount of the Student enrollment or the entire training class.

If Esri is unable to conduct the training on the scheduled date, Esri will notify Client at least three (3) business days before the scheduled date.

If cancellation of a training event is necessary due to Force Majeure as described in Article 11 below, the affected party is released in full from the three (3)-business-day notification. The affected party will either reschedule the training or cancel the order without that affected party incurring any liability.

Students may transfer from one scheduled Esri Learning Center class to another up to two (2) times at no additional charge. Subsequent transfers may be assessed an additional nonrefundable transfer fee.

Student substitutions, when a Student's place in class is filled by another person from the same organization, are allowed provided that Esri Customer Service is notified three (3) business days in advance of the class start date.

## **ARTICLE 8—PAYMENT**

Accepted payment methods are found at <http://training.esri.com/gateway/index.cfm?fa=catalog.paymentdetails>.

If payment is made in the form of a purchase order, Esri shall invoice Client upon completion of each training course or immediately upon receipt of purchase order, as mutually agreed upon with the Client. Client shall make payment no later than thirty (30) days after receipt of invoice. If the Client is invoiced and pays that invoice prior to the scheduled class, then the Client has one (1) calendar year (twelve [12] consecutive months) from the date of the invoice to consume the prepaid monies. Thereafter, all prepaid fees are forfeited.

## **ARTICLE 9—CONFIDENTIAL INFORMATION**

Except as provided in Article 5, Unique Client Coaching Privacy Terms, Esri or the Client may disclose to the other party certain confidential information under this Agreement. The disclosing party shall identify the information as confidential information at the time of disclosure. Each party shall use the confidential information described above only for exchanging information needed to provide the training contemplated by this Agreement. Within fourteen (14) days of completion of the training, each party shall return or destroy and provide written notification of destruction of the confidential information of the other party.

## **ARTICLE 10—RESERVATION OF OWNERSHIP AND GRANT OF LICENSE**

Except as specifically granted in this Agreement, Esri and/or its licensors own and retain all right, title, and interest in software, data, documentation, and training materials.

## **ARTICLE 11—FORCE MAJEURE**

If the performance of any obligation under this Agreement is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, or power; war, threat of or actual terrorist act, cyberattack, or other violence; any law, order, proclamation, regulation, ordinance, demand, or any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, will be provided a temporary extension for a period of time as may be reasonably necessary to allow for such delay, prevention, interference, or restriction.

## **ARTICLE 12—WARRANTY**

Esri will provide training in a manner consistent with the technical and professional standards of the industry.

**12.1 Disclaimer of Warranties.** WITH THE EXCEPTION OF THE LIMITED WARRANTY SET FORTH IN THIS ARTICLE, ESRI DISCLAIMS, AND THIS AGREEMENT EXPRESSLY EXCLUDES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINTERFERENCE, AND NONINFRINGEMENT, AS WELL AS ANY WARRANTIES THAT THE DELIVERABLES ARE ERROR FREE.

## **ARTICLE 13—LIMITATION OF LIABILITY AND EXCLUSIVE REMEDY**

EXCEPT FOR INDEMNITY ASSOCIATED WITH CLIENT SITE TRAINING, IN NO EVENT SHALL ESRI BE LIABLE TO CLIENT FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR TRAINING; LOST PROFITS; LOST SALES; BUSINESS EXPENDITURES; INVESTMENTS; BUSINESS COMMITMENTS; LOSS OF ANY GOODWILL; OR ANY INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ARISING OUT OF, OR RELATED TO, THIS AGREEMENT, HOWEVER CAUSED OR UNDER ANY THEORY OF LIABILITY, EVEN IF ESRI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ESRI'S TOTAL CUMULATIVE LIABILITY HEREUNDER, FROM ALL CAUSES OF ACTION OF ANY KIND, SHALL IN NO EVENT EXCEED THE AMOUNT ACTUALLY PAID BY THE CLIENT FOR THE PORTION OF THE TRAINING UNDER THIS AGREEMENT. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## **ARTICLE 14—EXPORT CONTROL REGULATIONS**

Esri technology is subject to U.S. export control laws and regulations. Esri software, data, documentation, training materials, and any underlying information or technology may not be exported, reexported, or transferred in whole or in part to (i) any U.S. embargoed or sanctioned country (including to a national or resident of a U.S. embargoed or sanctioned country, currently including Cuba, Iran, North Korea, Sudan, and Syria); (ii) any person on the U.S. Department of the Treasury's list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department's Denied Persons List, Entity List, or Unverified List; or (iv) any person or entity where such export or reexport violates any U.S. export control law or regulation.

## **ARTICLE 15—TAXES**

Training provided is quoted exclusive of all state, local, value-added, or other taxes; customs; or duties or other charges (other than income taxes payable by Esri). In the event such taxes or charges become applicable to Esri's training or deliverables, Client shall pay any such applicable tax upon receipt of written notice that such taxes or charges are due.

## **ARTICLE 16—UCC INAPPLICABILITY**

Training provided under this Agreement will not be governed by the Uniform Commercial Code (UCC) and will not be deemed "goods" within the definition of the UCC.

#### **ARTICLE 17—GOVERNING LAW**

This Agreement is governed by and construed in accordance with the laws of the state in which training is being held without reference to its conflict of laws principles.

#### **ARTICLE 18—ENTIRE AGREEMENT**

This Agreement constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, understandings, and arrangements (including any attached purchase order terms and conditions) between the parties relating to such subject matter. Client hereby acknowledges and represents that he/she has read and understands this Agreement and has the authority to bind his/her organization to these terms and conditions.